



## Trainer Notes

### Comprehensive Ethics Training Course (CETC)

*full version\**

October, 2022

\*This version is the most comprehensive, covering all aspects of the Public Officers Law and related regulations (including information specific to **FDS filers**). This course meets the statutory training requirements for all NYS Officers and Employees.

Additional versions of this course are available for employees not subject to financial disclosure (CETC-NF), and for unpaid or per diem officers serving on various boards, councils, and commissions (CETC-UPO). Please visit the [Ethics Officer Info Center](#) in the Education section of the COELIG website to download training materials for other versions of the CETC.

## **Training Guidance for the Comprehensive Ethics Training Course (CETC)**

### **Important Notes:**

- In requesting these training materials, you agree to not hide or delete slides, or alter or modify content on the slides. You may, however, add new slides with agency-specific information without seeking further approval from COELIG.
- The CETC satisfies the training requirements for ALL State employees. There are specific versions available for specific groups of officers and employees, including the full version of the CETC for all officers and employees including FDS filers, a version for employees who are non-filers, and a version for unpaid/per diem officers.

### **How to deliver training**

- These courses are written so they may be delivered by anyone familiar with NYS ethics laws. The person delivering the course should familiarize themselves with both the presentation and the trainer notes before the first session. Each slide may be read verbatim, or paraphrased and summarized according to the needs of your participants. The trainer notes are designed to assist the trainer in understanding the flow of the material and the primary teaching points. The notes are a guide however, and do not need to be read verbatim.
- Different agencies often have their own internal ethics policies. Feel free to use this as an opportunity to share those additional policies with your staff. Additional agency-specific slides can be added in the appropriate topic areas or added to the beginning or end of the presentation depending on agency need.
- The full version of the CETC will take approximately 90 minutes, but may take you less time depending on the number of participants and how many questions they have.
- It is suggested that you create a sign-in sheet or some other documented attendance record to help track training compliance within your agency.
- After the training is concluded, participants should be given a certificate of completion signed by your agency Ethics Officer.

### **Record Keeping**

- Training completion records are maintained by each agency and submitted to COELIG upon request. Please track Employee ID, First & Last Name, and date(s) of completion.
- Currently, the FDS System is not being used to track training for FDS Filers, but we hope to restore some system functionality by early 2023.
- The person who conducts the training is also credited with completing the class.

Slide 1



*Welcome & Introductions*

Trainer Notes:

- These trainer notes should be used by new trainers to help guide this training. While not written to be a verbatim script, in most cases they can be used as such.
- This course is required by Executive Law § 94 to be delivered live so that participants have an opportunity to ask questions in real time. The Trainer does not need personal expertise in State ethics laws to train this course. Questions can be redirected to the agency Ethics Officer or to the Commission Attorney of the Day.
- After the training has been completed, each participant should receive a “Certificate of Completion” that documents they have met this training requirement.
- These documents, plus updated copies of the training materials, can be found in the “Train-the-trainer” section of the “Ethics Officer Info Center” of the Commission website: [Ethics Officer Info Center | New York State Commission on Ethics and Lobbying in Government \(ny.gov\)](https://www.ethics.ny.gov/ethics-officer-info-center/new-york-state-commission-on-ethics-and-lobbying-in-government)
- Reference to “POL” in the notes means “Public Officers Law.”

## Slide 2

### Disclaimer

This mandatory Ethics Training is an overview of provisions that apply to all State officers and employees.

**Note:** a State agency may adopt its own ethics policies that are more restrictive than those covered in this course.

The information included in this training is for educational purposes only and not for the purpose of providing legal advice. You should contact your agency's Ethics Officer or the Commission's legal staff to obtain advice related to a particular issue or problem.

This course provides an overview of ethics laws and regulations that apply to those in State service.

Your agency may have more restrictive ethics policies than the state ethics laws we will review today. This is one reason why it's a good idea to seek advice from your agency's Ethics Officer.

This training is for education purposes only and is not a substitute for actual legal advice.

All applicable ethics laws, regulations, advisory opinions, policies, and guidance documents within COELIG's jurisdiction can be found at **[ethics.ny.gov](https://ethics.ny.gov)**

Segue: Let's take a quick look at what we will discuss today...

Slide 3



These are the topics covered in today's presentation:

(Review slide)

**Commission Overview**-brief summary of the changes to COELIG, the new ethics Commission

**Financial Disclosure Statements (FDS)**  
– overview of filing requirements that apply to some of you

**Conflicts of Interest** – What they are and how to avoid them

**Outside Activities** – Situations to be aware of

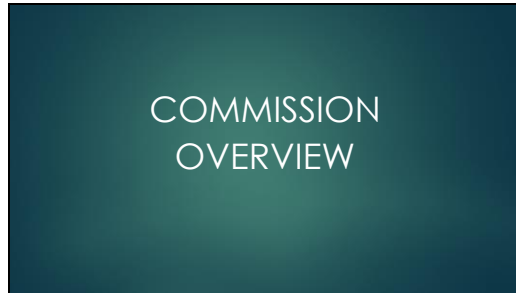
**Things of Value** – Be alert to Gifts, Honoraria, and Travel Payments

**The "Little Hatch Act"** – Avoiding politics in the workplace

**Post-Employment Restrictions** – Important information for the future

**Maintaining High Ethical Standards** – The value of public service

Slide 4



Let's start with a brief overview of the state's new ethics commission...

Slide 5



The Commission, COELIG, was established by the Ethics Commission Reform Act of 2022 to oversee and regulate ethics and lobbying in New York State and began operation on July 8, 2022.

It has broad jurisdiction over all State officers and employees, statewide elected officials, members of the legislature, and certain political party chairs.


COELIG also has jurisdiction over lobbying activities in the state.

Segue: This new legislation made many changes to the structure of the ethics commission...

Slide 6

### Statutory Changes: Commission Structure

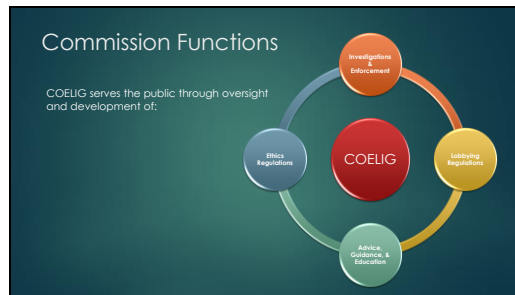
- ▶ Eleven members with appointees from the Governor's Office and the State Legislature, with new appointments from the Office of the State Comptroller and the Office of the Attorney General.
- ▶ An Independent Review Committee comprised of law school deans will confirm COELUG nominees from each appointing authority.
- ▶ The Commission's power to act is by simple majority vote.
- ▶ COELUG is subject to FOIL and the Open Meetings Law.



The ethics commission has been restructured under the Ethics Commission Reform Act of 2022 by reducing the number of Commissioners and modifying which elected officials make appointments to serve on the Commission. These nominees are now vetted by an independent review committee of law school deans prior to their appointment. The Act also changed the voting rules and makes the Commission subject to FOIL and the Open Meetings Law for the first time. These changes are intended to bring greater accountability to the Commission and reduces the appearance of political interference.

Segue: the core functions of the state's ethics commission have not changed, however...

Slide 7



Although the Commission and its predecessor agencies have often been described as a “watchdog” agency, investigation & enforcement is only one of its core functions. The Commission also serves an important advisory function for the regulated community.

The key functions of the commission are oversight of Ethics and Lobbying regulations; Guidance & Education; and Investigations & Enforcement.

Segue: Today's class fulfills the mandate to provide ethics education to State employees...

Slide 8



Our objectives are:

- Awareness - Educate State employees on the ethics laws, regulations, and policies they are obligated to follow.
- Prevention - Prevent both actual and apparent conflicts of interest between official duties and private interests.
- Compliance - Regular ethics training is mandated by the Executive Law and promotes public trust.

Segue: Let's take a brief look at the ethics training requirements...

Slide 9



The reason you're here today is because of the ethics training requirement contained in Executive Law § 94.

Pursuant to the new Executive Law section 94, all new officers and employees shall complete the live CETC within 90 days of appointment or employment and shall retake this live course every other year thereafter. The CETC classes are required to be "live" which means giving participants an opportunity to ask questions in real time.

The law also requires State employees to complete an online ethics refresher class in the years when you are not attending this live class. This course will provide an update on any changes in applicable laws, regulations, or policies. This course is expected to be available in 2023.

Segue: After this class, you may have questions about how these ethics laws may affect you...

Slide 10

### Agency Ethics Officer

Every State agency has appointed an Ethics Officer who:

- ▶ Provides guidance on ethics laws and policies
- ▶ Conducts reviews and approvals for certain regulated actions
- ▶ Offers live ethics training
- ▶ Manages the agency FDS Filer list
- ▶ Maintains ethics training records



Your agency Ethics Officer is a primary source of advice and guidance for questions about your obligations under both ethics laws and agency policies. Each State agency is empowered to establish ethics policies that are more restrictive than what is required by the Public Officers Law material that is covered in today's training, so your ethics officer is your first resource for further information.

*(Review slide)*

Segue: Another important resource for you is the ethics commission...

Slide 11

### Attorney of the Day

**Need Ethics Advice or Guidance?**  
COELIG legal staff is available to address your questions about how ethics laws and regulations apply to your circumstances.

Call: 1-800-87-ETHICS  
(800-873-8442)  
Press "2" for Attorney of the Day  
Email: [Guidance@ethics.ny.gov](mailto:Guidance@ethics.ny.gov)



One of the primary functions of COELIG is to offer advice and guidance to the regulated communities under its jurisdiction. There is an "Attorney of the Day" program that offers guidance on State ethics laws. COELIG also has a number of plain language guidance materials on our website, [ethics.ny.gov](http://ethics.ny.gov).

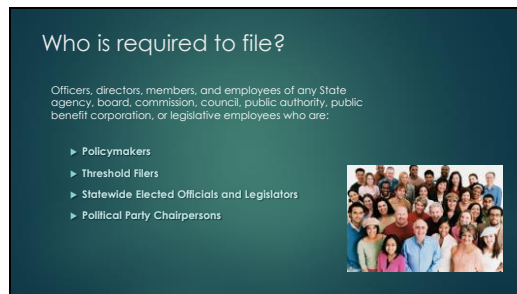
Segue: Our first topic applies to only certain participants— those who file financial disclosure statements.

Slide 12



We'll give you a brief overview of key aspects of this requirement and who it applies to.

Slide 13



Approximately 30k State officers and employees are designated as FDS filers. They are:

- Policymakers: Designated by agency (including unpaid/per diem members of boards, councils, and commissions). If you feel that your designation as a Policymaker is incorrect, this is an issue you must address with your agency Ethics Officer.
- Threshold Filers: Employees who exceed an income threshold > CSEA Salary Grade 24 (\$105,472 as of 4/1/22)
- The four Statewide Elected officials, Legislators & candidates for those offices
- Some Political Party Chairs (as defined in POL § 73(k))

Segue: Why do some employees have to file financial disclosures?

Slide 14

Why file Financial Disclosure Statements?

The purpose of the FDS is to:

- ▶ provide transparency
- ▶ prevent conflicts of interest

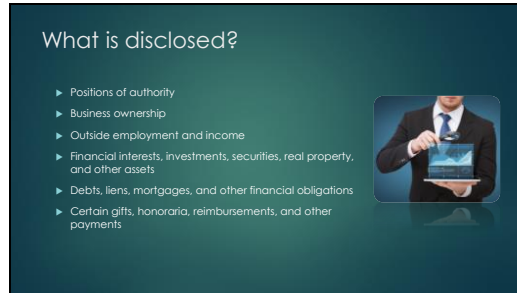


The Financial Disclosure Statement (FDS) is a publicly available record containing financial and professional information about the FDS filer and the filer's spouse or domestic partner. Note: reporting for domestic partners is a change to the filing requirements from the 2022 legislation.

The purpose of the FDS is to:

- provide transparency for those in public service
- prevent conflicts of interest between a person's public duties and private financial interests and affiliations.

Segue: What kinds of things must be disclosed?



Basically, all the many ways we obligate ourselves financially. Since the purpose of the FDS is transparency in order to avoid conflicts of interest, the form asks for many details of your finances.

The FDS provides transparency regarding how your connections with the private sector may create conflicts of interest with your public service.

The statement asks you about:

- Offices or any positions of authority held in a business entity or organization, political party, or political organization
- Ownership or professional affiliation with any business entity
- Ownership and income from financial interests, investments, securities, real property, and other assets
- Debts, liens, mortgages, and other financial obligations
- Certain gifts, honoraria, and other payments




This is not an exhaustive list of disclosed information.

Segue: When you have to file depends on your filing status...

## Slide 16

### When are the Filing Deadlines?

<b>May 15<sup>th</sup></b> Most State Officers and Employees	<b>November 15<sup>th</sup></b> SUNY & CUNY Academic Filers (Professors)
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New filers generally have 30 days to file for the previous year.

For those subject to the filing requirement, most will have an annual filing due date of May 15. This is also the deadline if you want to request a filing extension.

November 15 is the due date (and extension request date) if you are a professor for SUNY/CUNY.

When you first become a FDS Filer, you have 30 days to file for previous year.


Segue: Because FDSs are public documents, this sometimes raises privacy concerns.

## Slide 17

### Privacy Concerns

If an FDS is requested:

- ▶ The name of any minor child is automatically redacted
- ▶ Home addresses are redacted
- ▶ Specific location of real property is obscured



Although FDSs are public documents, only the FDS of elected officials are posted online; all others are only accessible by specific request.

If requested:

- The Commission automatically redacts the name of any minor child from the copy of the FDS that is made publicly available.
- Home addresses for paper filers are requested by the Commission for identification purposes only and are redacted for public inspection.
- For FDS questions related to real property, you may disclose the general location of any investment property you or your spouse may own, including street name and locality. You do not have to identify the house or apartment number.


Segue: There are other means to keep your personal information private...

Slide 18

### Options Available to Filers

An FDS filer can request:

- ▶ Redaction of responses
- ▶ Not answering specific questions
- ▶ Extension of time to file an FDS
- ▶ Exemption from filing (Threshold Filers only)



A FDS filer can make a request to:

- Redact specific information from the FDS copy made publicly available.
- Seek a limited exemption for some questions regarding a spouse/domestic partner or minor child.
- Get an extension for filing on the basis of justifiable cause or undue hardship – request must be made by filing deadline.
- Threshold Filers can request an exemption, but Policymakers may not.


These requests are granted under limited circumstances.


Segue: The FDS is an important legal obligation, and there are consequences if you don't file...

Slide 19

What if I fail to file my FDS?

- ▶ Notification
- ▶ Notice of Delinquency
- ▶ Civil penalty of up to \$40,000



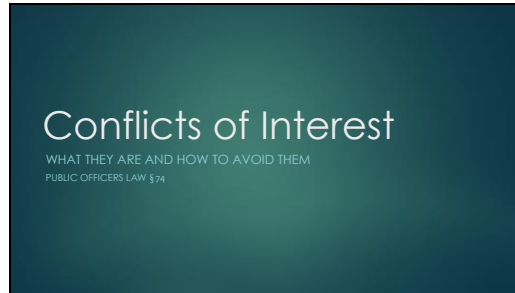
 **Note:** Notices of Delinquency are made publicly available on the Commission website.

- If you fail to file your FDS, or if you file a deficient FDS by either not answering a question or failing to respond to a question with the required specificity, COELIG will notify you. Once notified, you then have 15 days to comply or correct your filing.
- If you fail to respond, COELIG will send you and your appointing authority a Notice of Delinquency that advises you of fees and penalties. Notices of Delinquency (NOD) are made available for public inspection and kept in the filer's personnel file. NODs are also posted on the COELIG website.
- If you fail to remedy your filing, you may be subject to a civil penalty and possible criminal referral.

If you have any questions or difficulties filing your FDS before the deadline, please contact COELIG's FDS Help Desk for assistance.

Segue: Any questions about Financial Disclosure Statements?

Slide 20

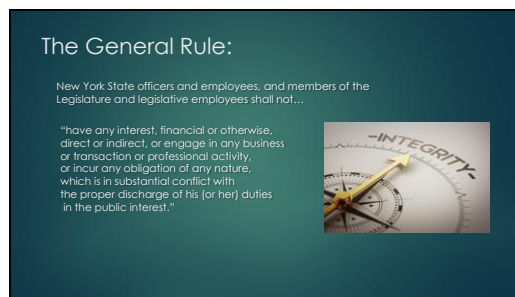


Avoiding conflicts of interest lies at the heart of Public Officers Law § 74. It contains The Code of Ethics, the foundation of the State Ethics Laws, which provides guidelines for making ethical choices while in State service.

It's important to note that the Code of Ethics doesn't just address actual conflicts of interest, but also the appearance of such conflicts, when acting in your official capacity. Being a public servant means that we are accountable to the public, and must act in the public's best interest, and not our own personal interest.

Segue: Let's start with the "General Rule" of ethics...

Slide 21



(Read slide)

POL 74(2)

General Rule: You may not engage in any behavior that would conflict with your duty to the public interest. This requires us to examine our activities in the context of substantial conflicts between public duties and personal interests.

(Trainer note: "Personal Interest" can be for the benefit of someone else, like friends or family, or even a preferred vendor)

Segue: Let's take a closer look at the Code of Ethics...

Slide 22

### Code of Ethics

- ▶ Intended to prevent you from misusing your official position or authority
- ▶ Aims to prevent actual conflicts of interest, as well as the appearance of a conflict, when performing your State duties

Contains nine **Standards of Conduct** that address

- impartiality
- confidentiality
- misuse of State resources
- financial conflicts of interest
- maintaining public confidence in public integrity



The Code of Ethics helps you navigate through potential ethical pitfalls caused by conflicts of interest.

*(Review slide)*

In terms of professional conduct in State service, we always need to ask if a potential conflict of interest exists. The Code of Ethics will help you identify and address potential conflicts of interest and is designed to prevent you from putting your private interest above public responsibility.

Segue: Let's take a closer look at what the Standards of Conduct say...

Slide 23

### Standards of Conduct

Standard A	• Impartiality
Standards B & C	• Disclosing Confidential Information
Standard D	• Securing privileges or favors based on your State job
Standard I	• Doing Business with the State
Standards E & G	• Financial Conflicts
Standards F & H	• "Integrity Standards"

The Code of Ethics describes 9 Standards of Conduct which aim to prevent conflicts of interest; they apply to all NYS employees.

*(briefly review standards)*

- **Impartiality (A)** – You can't let an outside job impair your independence of judgment when performing your state job

(A) EXAMPLE-You are a State-employed engineer working on a contract with a private sector vendor. As a representative of the State, you are responsible for making sure the vendor is adhering to your agency's contract. The vendor offers you a part-time position as a consulting engineer on a completely different project that does not involve your agency. You would be unable to pursue this outside employment.

- **Confidentiality (B & C) – B)** Don't disclose confidential information you have access to due to your state employment; and **C)** Don't disclose confidential information to personally benefit yourself or others. It's important to know what's confidential in your official position.

(B/C) EXAMPLE-You work as a Child Protective Manager for the Office of Children and Family Services (OCFS) and have access to CONNECTIONS, a confidential database of child abuse and maltreatment investigations throughout NYS. Your good friend is the non-custodial grandmother of a child who is a victim of child abuse and an OCFS client. When asked by your friend, you disclose information accessed through CONNECTIONS related to your friend's grandchild. This would be a violation of the statute.

- **Misuse of Position/Resources (D) -**  
 1) Prevents you from securing unwarranted privileges or favors based on your State job and 2) Stewardship of state resources – do not use resources of the state for personal business use (state vehicle, printers, computers, etc.)

(D) EXAMPLE- You are an employee at a State Agency. You also have your own desktop publishing business. You would be unable to use the State Agency's scanners, printers, computers and technical software to perform services for your clients even

if you bring your own paper and do this private work after hours.

- **Business with the State (I)** – you can't contract for work with entities that are licensed or regulated by your agency

(I) EXAMPLE- I work for DOH, Acme hospital is regulated by DOH; Therefore, I can't separately contract for work with Acme. I also may be prohibited from working at Acme as DOH employee.

- **Financial Conflicts (E & G)** – You can't participate in any matter related to your state employment where you may have the opportunity to gain financially. **E)** Abstain from transactions with any entity in which you may have a direct or indirect financial interest; **G)** Abstain from personal investments that conflict with your official duties as a NYS employee;

(E) EXAMPLE: You work for ITS in the procurement department, which purchases computers for the State. You may not participate in the decision to purchase computer equipment if your spouse works for a company that is bidding on the equipment purchase.

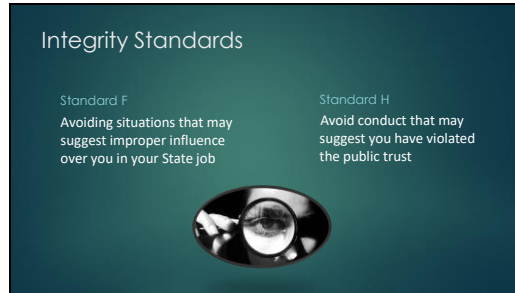
(G) EXAMPLE: You work for the Gaming Commission, which licenses new casinos. You have information that a certain casino company will soon be licensed in the state, and realize that you have an opportunity to make a profitable investment in the casino before the licensure is publicly

announced. Using your “insider knowledge” to make this kind of financial investment would be a violation of Standard G.

- **Integrity standards (F & H)** — The “Public Optics Test” - examines your actions through the lens of the public. You must conduct yourself in a manner that does not: **F)** give an impression that you could be influenced or would attempt to influence someone else, or; **H)** raise suspicion among the public that you’re personally benefitting from your official position.

Segue: Let’s take a closer look at the “Integrity Standards”...

Slide 24



As public servants, State employees are held to very high standards of integrity and conduct. These “Integrity Standards” set the public “optics test” for professional behavior.

Standard F really focuses more on professional behavior... *(Read Standard F)* So don’t act like you can be influenced. If it looks like you could be improperly influenced, that’s enough to violate this standard.

Standard H again features the public optics test. *(Read Standard H)* We must not act in ways that give the appearance of misconduct. If it might look suspicious, don’t do it.

These two standards do not carry a monetary or civil penalty; however, you could still face disciplinary action from your agency.

Segue: Let’s look at some other areas to be aware of when considering conflicts of interest...

Slide 25



State officers and employees must always put the public interest ahead of their own. This is especially important when engaging in outside business activities that involve State interests.

*(Review Slide)* Your private business can sell goods or services to the State as long as you go through the same competitive bidding process as other private entities. *POL 73(4)*

Segue: There are some types of activities that your private business may not be allowed to conduct with the State...

Slide 26

**Representation Before the State and Prohibited Communication**

There are limits when you may appear or render services on behalf of yourself or another in connection with a matter before the State.

You are prohibited from receiving compensation in connection with:

- ▶ Real estate transactions
- ▶ Rate-making proceedings
- ▶ Adoption or repeal of regulations
- ▶ Obtaining grants or loans
- ▶ Licensing or permitting
- ▶ Lobbying
- ▶ Actions against the State in the Court of Claims



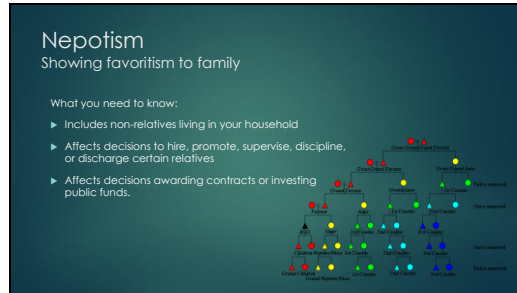
State officers and employees are prohibited from receiving compensation in connection with real estate transactions, rate-making proceedings, adoption or repeal of regulations, obtaining grants or loans, licensing/permitting, lobbying, and actions against the State in the Court of Claims.

As key State agency functions, it would represent a conflict of interest for you to try to influence these functions as both a private citizen and a public servant.

*POL 73 (3) & (7)*

Segue: Some other kinds of conflicts of interest are more easily recognizable...

Slide 27



Nepotism is favoritism shown on the basis of family relationship. This restriction says you can't participate in the personnel decisions related to your relatives, and you can't give contracts to relatives, or invest State \$ with a relative.

A "relative" is one who is a direct descendant of your grandparents or the spouse of those common descendants. What you may not know is that anyone living with you in your household is also considered a relative, regardless of actual relationship.

Best practice: Inform your supervisor or Ethics Officer if you are asked to be involved in personnel decisions for anyone you may know personally. There might be an "appearance" issue to consider. Let your Ethics Officer make the determination of whether recusal is appropriate.

Segue: Avoiding the appearance of a conflict is also important when you join State service...

Slide 28



- This affects former private sector employees who are newly entering State service.
- You may be required to recuse yourself from matters directly involving your former private sector employer for a “cooling off period” of two years from when you left your private sector employment.
- Its purpose is to prevent you from giving preferential treatment to or be unduly influenced by your former private sector employer.

*(Trainer Note: More information can be found in advisory opinions 98-09 and 07-04.)*

Segue: Our personal outside activities are also an area where we must consider potential conflicts of interest...

Slide 29



We must make sure that our personal outside activities don't represent a substantial conflict of interest with our public service, and there are many factors to consider...

*(Trainer Note: Regulations governing Outside Activities are found in 19 NYCRR Part 932)*


Slide 30

What is an outside activity?

Any activity or obligation that is unrelated to your State employment.

Outside activities may not:

- ▶ occur during your regular work hours
- ▶ use State resources
- ▶ conflict with your State job



*(Review slide)*

The general rule about participating in outside employment or similar activities is to look at it from both POL §§ 73 & 74. It can't violate the restrictions in 73, but it also can't give the appearance of a conflict of interest, benefit, or preferential treatment under the Code of Ethics in POL 74.

Most agencies also have additional policies that address outside activities. You should seek advice from your agency ethics officer before engaging in outside activities.

Segue: Let's look at some of the considerations...

### General Provisions

<b>The law: POL § 73</b> Applies broadly <ul style="list-style-type: none"><li>➤ Restrictions on selling goods or services to the State</li><li>➤ Restricts paid outside activities</li><li>➤ Prohibits State employees from lobbying</li></ul> 	<b>The regulations: 19 NYCRR 932</b> Applies to <b>Policymakers</b> <ul style="list-style-type: none"><li>➤ Requires approval</li><li>➤ Restricts participation in certain political activities</li><li>➤ Requires a yearly notification to the agency Ethics Officer</li></ul> 
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POL 73 places restrictions on some professional activities; the regulations in Title 19 NYCRR Part 932 (“Part 932”) clarify and expand those restrictions.

#### POL § 73 - What the law says:

The law applies broadly to all State officers and employees

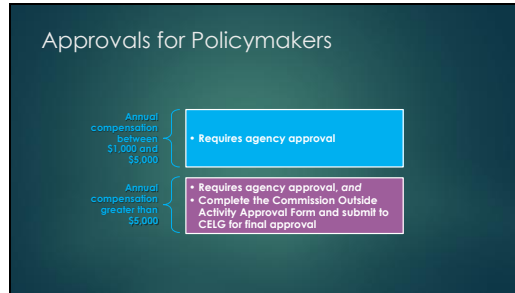
- There are restrictions on selling goods or services to the State
- Restricts outside activities for compensation before any State agency
- Prohibits State employees from engaging in paid lobbying activities

#### Part 932 - What the regulation says:

- Applies to FDS filers designated as policymakers
- Your Outside Activity can’t be in conflict with your State responsibilities, so your Ethics Officer must approve it in advance.
- Restricts participation in certain political activities
- Requires a yearly notification to the agency Ethics Officer that you are still engaged in that Outside Activity

Segue: All filers should consult with their Ethics Officer on their outside activities, but for policymakers, getting approval is a requirement...

Slide 32



Who approves your outside activity depends on what it is and how much you expect to earn. If your activity will earn (or you expect it to earn) greater than these threshold amounts, you need approval.

*(Review slide)*

Agency approval usually happens through the Ethics Officer, but can be others.

Segue: There are some specific kinds of activities that should prompt you to seek guidance...

Slide 33



Please seek guidance from either your Ethics Officer or the attorney of the day for any of the following activities:  
*(Review slide)*

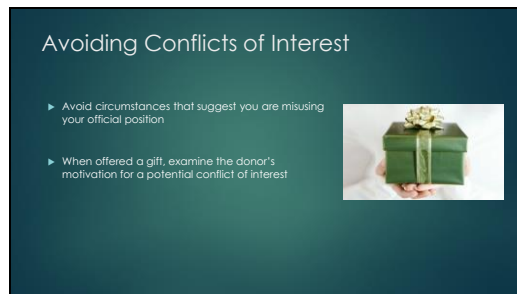
Segue: Another area that has great potential for conflicts of interest involves accepting things of value...

Slide 34



As a public servant, any time you are offered something that has value, you must be sure that accepting it does not create an actual or apparent conflict of interest.

Slide 35



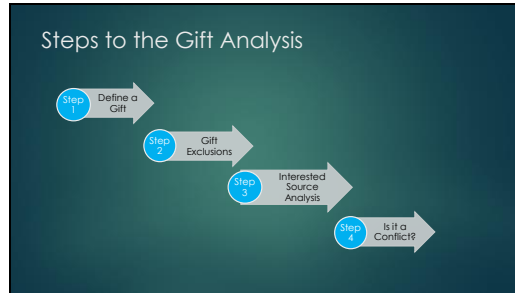
Receiving gifts and other things of value is an area where there is sometimes confusion about what is allowable and what is not.

*(Review slide)*

Many agencies have rules that are more restrictive than those outlined in POL 73. For example, many agencies have a zero-tolerance policy on the acceptance of gifts. It's important to check with your Ethics Officer if you have questions on if it is allowable for you to accept a thing of value.

Segue: We'll start with reviewing the gift rules, because the analysis we use for that is the same analysis that is used for other things of value, such as honoraria and travel reimbursements.

Slide 36



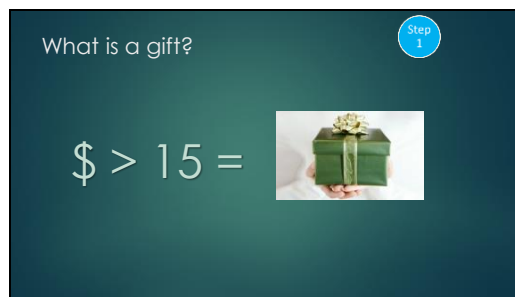
The gift provisions in POL 73 and Title 19 NYCRR Part 933 require us to analyze whether accepting a gift might create a conflict of interest.

We will first define what qualifies as a “gift,” then we will review the things that are excluded from that definition. It’s also important to know who is offering the gift, so we must look at them as a potential “interested source”.

This will help us determine if the gift represents a conflict of interest and, therefore, is unable to be accepted.

Segue: Let’s first define “gift” ...

Slide 37



Anything greater than \$15 in value is generally considered a gift.

“Gift” has a broad definition, but it’s generally something of more than “nominal value.” The Commission generally considers something with a fair market value of \$15 or less to be of nominal value.

A Gift includes, but is not limited to, money, services, loans, travel, lodging, meals, refreshments, entertainment, forbearance, or a promise having a monetary value.

Segue: Now that we know what a gift is, let’s review the things that are NOT considered gifts...



These are things you may accept, as long as it doesn't create the appearance of a conflict of interest.

These are not considered gifts:

- Awards or plaques in recognition of public service
- Honorary degrees
- Promotional items with no resale value (e.g. conference "swag")
- Discounts available to the general public, all State employees, or certain State employees depending on the circumstances (e.g. cellphone discounts available to NYS employees)
- Gifts from those with whom there is a demonstrated familial or personal relationship
- Contributions reportable under the Election Law (e.g. campaign donations)
- Meals and beverages provided to participants at professional and educational programs
- Food or beverage valued at \$15 or less per event
- Local travel payments for tours related to your State job

Segue: There are a couple of additional gift exclusions that relate to events...



Certain events are also excluded from the Gift rules.

Informational Events: If you are the speaker at an event hosted by a governmental entity or in-state accredited institution of higher learning who is paying the expenses or reimbursing you, you may accept travel, food, and lodging.

Charitable Events: You may accept complimentary attendance, including food and beverages, if the event's primary purpose is to provide financial support to an organization that is registered as a bona fide charity (that is either registered as a charity with the Attorney General's Office (unless exempt) or qualified under section 501(c)(3) of the Internal Revenue Code).

Political Events: You may accept complimentary attendance, including food and beverages, if the event's primary purpose is to provide financial support to a bona fide political organization or a candidate for statewide office.

Segue: One other gift/event exclusion is a common scenario called the "Widely Attended Event"...



You might be able to accept free admission to a "Widely Attended Event" if it meets the following conditions:

*(Review slide)*

The first 2 criteria help prevent an interested source from creating an event specifically to target you or your agency.

The third criteria is official-specific, rather than event-specific - the event must be related to your official duties. (This can be satisfied if there is a speaker at the event who addresses an issue of public interest or concern.) Example of a ceremonial function might be throwing out the first pitch in a baseball game.

Give your Ethics Officer plenty of advance notice so they can thoroughly vet this event prior to your attendance.

Parameters of Exclusion:


- Food and beverage is only permissible if offered to all participants
- The WAE exclusion does not cover entertainment, recreational, or sporting activities unless the presentation addressing the public interest or concern is delivered during the entertainment, recreational, or sporting activity

Segue: We need to review the concept of an "Interested Source"...

## Slide 41

**Interested Source Analysis** Step 3

- ▶ Is regulated by or appears before you or your agency
- ▶ Has contracts with, or seeks contracts with, you or your agency
- ▶ Is a registered lobbyist or client of a lobbyist that lobbies your agency
- ▶ Is the spouse or the minor child of a registered lobbyist or client of a lobbyist that lobbies your agency
- ▶ Is involved in ongoing litigation that is adverse to you or your agency
- ▶ Has received or applied for funds from your agency at any time during the previous year, up to and including the date of the proposed or actual receipt of the gift
- ▶ Attempts to influence you or your agency in an official action



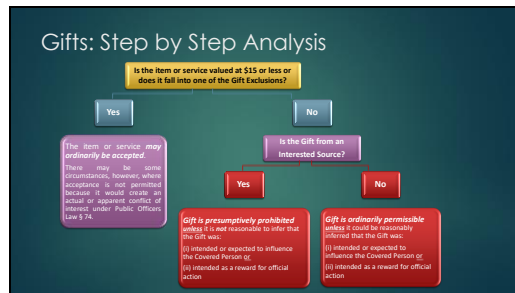
An interested source is a person or entity that has a vested interest in influencing you or your agency. An interested source can be any of the following:

*(Review slide)*

Generally, you cannot accept a gift or any thing of value from an Interested Source.

Segue: Now that we know what is and isn't a gift, and who is an Interested Source, we can conduct the gift analysis...

## Slide 42



When deciding if it is allowable to accept a gift, consider the following questions:

*(Review slide)*

Segue: There are other gift considerations as well...

Slide 43

### Conflicts of Interest and Gifts

**Gifts to Third Parties**

- ▶ If you can't accept the gift, you also can't redirect it to anyone else



**Multiple "Permissible" Gifts**

- ▶ Repeated nominal gifts from the same source can create an "appearance" problem



Gifts to 3<sup>rd</sup> parties: You cannot take a gift the law prevents you from accepting and redirect that gift to a third party, including your spouse, child, or a charitable organization.

Multiple gifts: If you accept multiple permissible Gifts from the same source, you could, depending on the circumstances, violate the Code of Ethics in POL § 74 by creating an actual or an apparent conflict of interest or an appearance of improper influence.

There are a number of factors that need to be considered before accepting gifts, so when in doubt, seek guidance.

Segue: let's look at honoraria next...

Slide 44

### Honoraria

WHEN TO SAY "NO"

PUBLIC OFFICERS LAW § 73, § 74, AND 19 NYCRR PART 930


Honoraria are a thing of value, so let's look at what needs to be considered...

Slide 45

What is an Honorarium?

Payment or other compensation offered in exchange for a professional service or activity, such as:

- ▶ giving a speech
- ▶ writing an article
- ▶ serving on a panel at a seminar or conference that is *not part* of your official duties



*(Review Slide)*


An honorarium may include expenses incurred for travel, lodging, and meals related to the service performed.

Segue: Here's what you need to know before performing the service...

Slide 46

Honoraria:  
What You Need to Know

- ▶ Advance written approval by your Ethics Officer is required
- ▶ Over \$1,000/year reportable on financial disclosures
- ▶ Faculty members of SUNY & CUNY, and other specific titles, are exempt from approval procedures
- ▶ Statewide Elected Officials and Civil Department Heads cannot accept honoraria for speeches
- ▶ Three-year record retention; available to Commission upon request



- Requests for approval must be made in advance to give the Ethics Officer time to review the activity for potential conflicts of interest between the outside organization and your agency that you may be unaware of.
- Honoraria <\$1,000 is reportable on the FDS, for those required to file
- Because faculty are often expected to perform honorarium-generating tasks as part of their professional responsibilities, they are exempt from the approval procedures.
- Giving speeches is a part of the duties for Statewide Elected Officials and Civil Dept heads, so they may not accept payment for speeches.
- There's a 3 year records retention rule for approvals


Segue: Let's look at the factors that must be considered before your honorarium-generating activity can be approved...

Slide 47

### Restrictions on Honoraria

You may not:

- ▶ Use State personnel or equipment
- ▶ Perform task on State time (must use vacation or personal leave if during the official workday)
- ▶ Use State funds to pay for expenses
- ▶ Accept payments from an Interested Source
- ▶ Perform tasks that give appearance of conflict of interest



There are several factors to consider when seeking approval for Honoraria.

- You cannot use State personnel or equipment to prepare the honorarium-generating activity.
- If the service is to be performed during the official workday, you must charge vacation or personal leave.
- No State funds can be used to pay your attendance, registration, travel, lodging, or meal expenses.
- If the honorarium is offered by or on behalf of an Interested Source, it can't be used to either reward or influence you in performing your State job duties.
- The acceptance of an honorarium cannot violate the conflict of interest rules found in the Code of Ethics (POL § 74).

Segue: A related provision considers travel reimbursements...

Slide 48

### Official Activity Expense Payments

REIMBURSEMENTS FOR STATE TRAVEL  
PUBLIC OFFICERS LAW § 73, § 74, AND 19 NYCRR PART 932

Travel reimbursements have value, so we must apply the same kind of thinking to these transactions as we do to other things of value...

Slide 49

What is an Official Activity Expense Payment?

- ▶ Travel reimbursement by a third party for an activity that is part of, and related to, your State job
- ▶ All requests to approve a payment must be made to your Ethics Officer in advance.




Certain kinds of reimbursements by third parties for work-related travel are allowed, but must be requested in writing and approved in advance.

Segue: There are things to consider to determine if you may accept payments for activity expenses. You must follow the same type of situational analysis as when considering gifts.

Slide 50

What You Need To Know

- ▶ Mode of travel must conform to agency travel policy
- ▶ Generally cannot accept payment or reimbursement from "Interested Source"
- ▶ Over \$1,000/year reportable on financial disclosures
- ▶ Three-year record retention; available to the Commission upon request



- You can't accept a first-class ticket. Mode of travel and related expenses must align with your agency's current travel policy.
- Payment or reimbursement from an "Interested Source" is generally not allowed.
- Travel reimbursements over \$1,000 from each source are reportable on the FDS, for those required to file. If third party pays travel expenses directly, these payments are not reportable on the FDS.
- Agencies must retain all Official Activity Approvals for three years and make them available to the Commission upon request.

Segue: Our next topic is about politics in the workplace...

Slide 51



The Little Hatch Act (Civil Service Law § 107) addresses political activity in State service, and puts rules in place about what can and cannot be done at work. It is modeled on the Federal “Hatch Act” which also seeks to prevent political activity in the workplace.

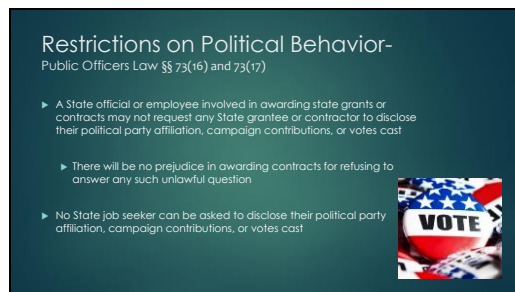
Slide 52



Political activity is restricted by POL §§ 73, 74, and Civil Service Law § 107. *(Review slide)*

Segue: Let's look at what is prohibited...

Slide 53



There are restriction on political activities in POL § 73. *(Review slide)*

With regard to contractors, a State employee shall not award, or decline to award, a contract or grant based on these issues.


With regard to prospective employees, a State employee shall not make an employment decision based upon these issues.

Segue: The Little Hatch Act has similar restrictions...

Slide 54

**Restrictions on Political Behavior-**  
Civil Service Law § 107

- ▶ You cannot ask questions about a job candidate's political affiliation, contributions, or voting history
- ▶ You may not be questioned about your political affiliation as a condition of employment
- ▶ You cannot use your State position to coerce, intimidate or influence employees for any political purpose
- ▶ You cannot dishonestly use your official authority in exchange for political action on someone else's part
- ▶ State offices may not be used to solicit or collect political contributions



The Little Hatch Act broadly restricts political activities in the State workplace.

*(Review Slide)*

Segue: POL 74 also restricts our political activities in the workplace...

Slide 55

**Prohibited Political Activities in the Workplace**

-  Circulating a candidate's nominating petition within your office
-  Using office computer after work to produce a campaign brochure
-  Sending email invitations to campaign events to friends within the agency
-  Using New York State internet connections to forward email messages received from a partisan campaign or candidate

Here are some real-work examples that have been found to be in violation of POL § 74.

- No nominating petitions in the office – outside the workplace on personal time is allowed
- You can't use State resources to produce any political materials
- You can't use State email for political communications, even to friends you know support your candidate
- If you receive a political communication to your work email address in error, delete it and contact the candidate to give them your personal email address. Even forwarding a political email to your personal address is a violation because you have used the State's internet connections to distribute political materials.

Segue: Another important part of the law includes not using your public service to personally enrich yourself after you leave employment with the State...

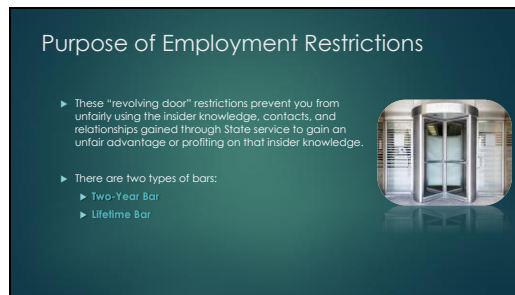
Slide 56



While planning your career, it's important to note that there are certain restrictions on your employment after you leave State service.

We'll raise your awareness of those restrictions today, but remember to consult with your agency Ethics Officer or COELIG for guidance before entering the private sector for a company that has matters before your agency.

Slide 57



These restrictions are designed to prevent a former employee from personally benefitting in the private sector from the insider knowledge they gained as a public servant. After you leave State service, you can't have an undue advantage in professional matters before your former agency.

It is important to consult with your Ethics Officer or the Commission prior to accepting a private-sector position that may involve official actions you took as a State employee or officer.

The two-year bar applies to all State employees subject to POL § 73; the lifetime bar is determined on a case-by-case basis.

Segue: The two-year bar is the most common of these restrictions, so let's start there...

Slide 58

### Two-Year Bar


Creates a two-year "cooling off" period

- ▶ The goal is prevent you from:
  - Influencing a decision or action by your former agency, or
  - Gaining non-public information from your former agency

The two-year bar contains two restrictions:

- "Appear or Practice"
- "Backroom Services"

Both restrictions apply for two years immediately following your separation from State service.



The two-year bar creates a "cooling off" period to prevent the appearance that you could unduly influence your former agency or gain an undue advantage from your former agency.

It contains two restrictions - the **"Appear or Practice"** restriction and the **"Backroom Services"** restriction - both of which apply for two years immediately following your separation from State service.


Note, these restrictions do not ban all contact with your former agency, it just prohibits you from gaining unfair advantage from your previous agency connections in your new private sector job.

Segue: Let's start with what the "appear or practice" prohibition looks like...

Slide 59

### Appear or Practice Prohibition

- ▶ You may not appear or practice before your former agency for two years following your separation from State service.
- ▶ This prohibition applies to both paid and unpaid work.

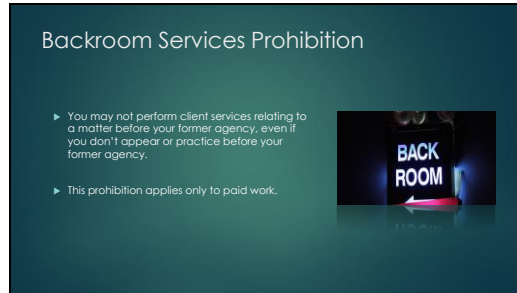


*(Review slide)*

Some examples of prohibited appearances or practices are:

- \* Negotiating a contract with a former agency
- \* Submitting a grant proposal or application to a former agency
- \* Representing a client in an audit before a former agency

Segue: The flipside of the "appear or practice" prohibition is the "Backroom Services" restriction...



*(Review slide)*

Some examples of prohibited backroom services are:

- \* Preparing documents for a private firm when it is reasonably foreseeable that the documents will be reviewed by your former agency
- \* Helping another person to create an application to be submitted to your former agency
- \* Assisting another person in the development of a plan or strategy for influencing a decision of your former agency


In these examples, we can see that you're not directly interacting with your former agency, but your private sector firm is still using your insider knowledge to gain an advantage over the general public.

Segue: There is a special set of restrictions for Executive Chamber employees...

Slide 61

### Special Two-Year Bar for Executive Chamber Employees

- ▶ Former Executive Chamber employees are prohibited from appearing or practicing - regardless of compensation - before all State agencies, not just the Executive Chamber.
- ▶ They may, however, be paid to perform backroom services related to State agencies other than the Executive Chamber.



Because Chamber employees potentially interact with all State agencies, they are subject to a modified version of the post-employment restrictions.

*(Review slide)*


Segue: The next employment restriction is the Lifetime bar...

Slide 62

### Lifetime Bar

Once you leave State service you may never appear, practice, or render services before any State agency in relation to any matter you personally participated in.

- ▶ Narrowly applied
- ▶ Situation specific
- ▶ Seek guidance



*(Review Slide)*

For example, while working at DEC, you helped conduct an environmental impact study for a proposed housing project. The Div. of Homes & Community Renewal will conduct a review of the completed project. After you leave State service, you join the construction co. that built it, and the completed project goes to HCR for review. You might be Lifetime Barred from participating in the review of that project for the construction company. However, in a different scenario, you may be allowed to *volunteer* your expertise for an environmental group that is trying to conserve wetlands on the property.


Segue: There are many factors that the Commission will consider in determining the Lifetime Bar...

Slide 63

### Factors Considered for Lifetime Bar

The Commission will examine a non-exhaustive list of factors in considering whether it is the same specific case, proceeding, application or transaction, including:

1. the general nature of the project
2. the phases of the project involved
3. the nature of the work performed as a State employee and the nature of the work projected to be performed
4. the extent to which the projected work constitutes a continuation of the earlier work
5. the identities of other persons and/or entities directly involved in the earlier work and in the projected work
6. intervening changes in design, methods, or technology



Advisory Opinion 18-01 clarifies the factors to be considered when imposing the Lifetime Bar.

This bar is very narrowly applied and specific to the circumstances, so you will want guidance to determine if it applies in your case.

Segue: The Lifetime ban is not imposed often, but there are other factors to consider when contemplating future employment in the private sector...


Slide 64

### Negotiating Future Employment

There are restrictions on if, and when you may negotiate future employment with an entity or individual that has a specific matter pending before you.

You'll have to engage in a 30 day "cooling off" period:

- ▶ Notify your agency of your intent to pursue job offer
- ▶ Recuse yourself
- ▶ Cease contact with entity

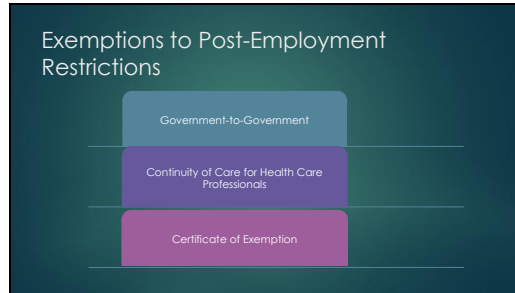


If you receive an unsolicited job offer, or if you are interested in seeking or applying for a position, you may only pursue an employment opportunity after waiting 30 days from:

1. The date the matter before you closed; or
2. The date on which you notified your supervisor and Ethics Officer of your intent to pursue a job offer and recused yourself from the matter and any further contact with the entity or individual.

A job offer is considered a thing of value, so both the gift regulations as well as provisions prohibiting negotiations of future employment may be implicated.

Segue: There are some exceptions to these restrictions...



The post-employment restrictions do not apply in the following situations:

- If you leave State service but move to another gov't position (local, state, or fed), you're still serving the public, and these restrictions do not apply.
- If you are a health care professional, you can continue to care for patients that have been in your care as a State employee.
- You're not prevented from returning to your former agency as a private consultant if there is a specific matter for which your agency requires your expertise AND certifies that the former employee's knowledge, expertise, and experience is required but not otherwise available at a comparable cost.
- The Commission's approval of the agency's request is also required.

Remember, if you have any questions regarding how these employment restrictions may apply to your particular set of circumstances, please consult your agency Ethics Officer or a COELIG attorney.

Slide 66



All State officers and employees are responsible for maintaining high ethical standards in the conduct of their State service.

Slide 67



Each of us is responsible for fostering a strong culture of ethics in New York State. The public holds us to high standards of accountability.

It's not just elected officials who sometimes violate the Public Officers Law. We must stay alert to ethics violations in all areas of public service.

The public expects:  
(Review slide)

Segue: When the public trust is broken, COELIG is charged with investigation and enforcement of the laws we reviewed today...

Slide 68

Investigation & Enforcement

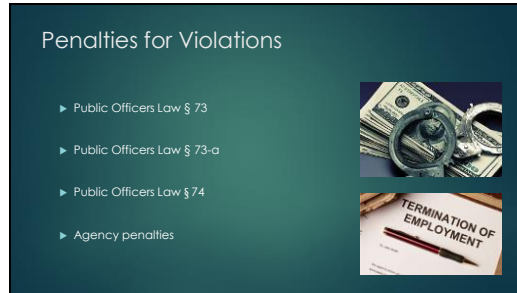
- ▶ Governed by Executive Law § 94(10)
- ▶ Enforcement proceedings are confidential until there is a finding (or settlement) against the subject. Notice to the subject is not required in the early phases before the Commission issues a 15 day letter that notifies you of an investigation.
- ▶ You are given an opportunity to respond

All investigatory and enforcement procedures are posted to our website under the [Investigations](#) tab.

While we hope you never find yourself in this situation, your rights are preserved under the investigatory process:

- Enforcement proceedings are confidential until there is a finding (or settlement) against the subject. Notice to the subject is not required in the early phases before the Commission issues a 15 day letter that notifies you of an investigation.
- You will be given an opportunity to respond to those allegations

Segue: If it is determined that a violation has occurred, there are penalties that may be assessed...



- Violations of the restrictions in POL § 73 may carry civil penalties of up to \$40K, plus the value of any gift, compensation, or benefit received as a result of the violation.
- Violations of the Code of Ethics in POL § 74 may carry civil penalties of up to \$10K, plus the value of any gift, compensation, or benefit received as a result of the violation (except for standards (f) and (h) which have no civil penalty. The Commission is now, however, empowered to recommend and refer for agency discipline, including suspension and termination, any violation of the Civil Service Law 107 and the Public Officers Law-including POL 74(f) and (h).
- Violations of the financial disclosure provision in POL 73-a - penalties of up to \$40K.
- Violations of Civil Service Law § 107- penalties up to \$40K
- Your agency is also empowered to impose their own penalties, including fines and termination of employment, for employees who violate ethics laws.

The civil penalties can be substantial, so seek guidance from your Ethics Officer or COELIG if you have any questions about these aspects of the Public Officers Law. Your agency can impose consequences that are even more punitive than what the law allows.

Segue: Your service in the public interest is valuable, and help is available...


Slide 70

### Help is Available

Your agency **Ethics Officer** is your primary source of guidance on the laws, regulations, and agency policies that apply to you.

The ethics commission also has an **Attorney of the Day** program to offer guidance to the regulated community. Staff attorneys are available to help you navigate the rules governing your conduct as a State officer or employee under the Public Officers Law.

The Commission's website, [ethics.ny.gov](http://ethics.ny.gov), is an extensive resource for the public and those under the Commission's jurisdiction.



*(Review slide)*

Contact your Agency Ethics Officers for help understanding your obligations under the law.

Contact the ATOD program for additional guidance.


Finally, the Commission's website is also an excellent source for plain language guidance materials.

Segue: There are other ways you can help build a strong ethical culture in public service...

Slide 71

### Report Misconduct

- ▶ We all play a part in upholding high ethical standards
- ▶ You can provide a tip **confidentially** or anonymously
- ▶ Call 800-87-ETHICS or visit [ethics.ny.gov](http://ethics.ny.gov)



As the saying goes, "if you see something, say something."

The Commission accepts tips by phone, email, or by using the online "Report a Tip" form. You can also file a formal complaint, anonymously if you prefer.

Call their toll-free number or visit the website to report misconduct in State service.

Segue: You're not in this alone. Reach out for help when you have questions or concerns...

Slide 72

Commission Contact Information

 For General Inquiries, call:  
1-800-87-ETHICS or (518) 408-3976

 For Legal Guidance, email:  
[Guidance@ethics.ny.gov](mailto:Guidance@ethics.ny.gov)

 For further information on the  
ethics laws:  
[ethics.ny.gov](http://ethics.ny.gov)



One of the central missions of the Commission is to provide guidance on matters of State ethics. The purpose of this training was to give you greater awareness of your obligations under the Ethics laws, but if you have any questions, please reach out.

Thank you for your participation today, and thank you for your service to the State of New York.